



## Senate

General Assembly

**File No. 441**

January Session, 2007

Substitute Senate Bill No. 1048

*Senate, April 11, 2007*

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING THE INVESTIGATION OF A DISCRIMINATION COMPLAINT AGAINST OR BY AN AGENCY HEAD OR STATE COMMISSION OR BOARD MEMBER.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 46a-68 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective from*  
3 *passage*):

4 (b) (1) Each state agency, department, board or commission shall  
5 designate a full-time or part-time affirmative action officer. If such  
6 affirmative action officer is an employee of the agency, department,  
7 board or commission, the executive head of the agency, department,  
8 board or commission shall be directly responsible for the supervision  
9 of the officer.

10 (2) The Commission on Human Rights and Opportunities shall  
11 provide training and technical assistance to affirmative action officers

12 in plan development and implementation.

13 (3) The Commission on Human Rights and Opportunities and the  
14 Permanent Commission on the Status of Women shall provide training  
15 concerning state and federal discrimination laws and techniques for  
16 conducting [internal] investigations of discrimination complaints to  
17 persons designated by state agencies, departments, boards or  
18 commissions as affirmative action officers and persons designated by  
19 the Attorney General or the Attorney General's designee to represent  
20 such agencies, departments, boards [departments] or commissions  
21 pursuant to subdivision [(5)] (6) of this subsection. Such training shall  
22 be provided for a minimum of ten hours during the first year of service  
23 or designation, and a minimum of five hours per year thereafter.

24 (4) (A) Each person designated by a state agency, department, board  
25 or commission as an affirmative action officer shall [(A)] upon  
26 knowledge or receipt of a discrimination complaint against the agency,  
27 department, board or commission (i) be responsible for investigating  
28 such discrimination complaint to determine whether any agency  
29 policies have been violated and for mitigating any discriminatory  
30 conduct within the agency, department, board or commission [, (B)  
31 investigate all complaints of discrimination made against the state  
32 agency, department, board or commission, (C)] that is found to be in  
33 violation of such agency policies, and (ii) report all findings and  
34 recommendations upon the conclusion of [an] the investigation to the  
35 commissioner or director of the state agency, department, board or  
36 commission for proper action. [, and (D) complete ten hours of training  
37 provided by the Commission on Human Rights and Opportunities and  
38 the Permanent Commission on the Status of Women pursuant to  
39 subdivision (3) of this subsection.]

40 (B) Notwithstanding the provisions of subparagraphs (A)(i) and  
41 (A)(ii) of this subdivision, if a discrimination complaint is made  
42 against the executive head of a state agency or department, any  
43 member of a state board or commission or any affirmative action  
44 officer alleging that the executive head, member or officer engaged in

45 discriminatory conduct, or if a complaint of discrimination is made by  
46 the executive head of a state agency, any member of a state board or  
47 commission or any affirmative action officer, the Department of  
48 Administrative Services shall conduct the investigation of such  
49 complaint, unless the complaint is by or against the commissioner or  
50 affirmative action officer of the Department of Administrative Services,  
51 in which case the Commission on Human Rights and Opportunities  
52 shall conduct the investigation. Each person who conducts an  
53 investigation pursuant to this subparagraph shall report all findings  
54 and recommendations upon the conclusion of such investigation to the  
55 appointing authority of the individual who was the subject of the  
56 complaint for proper action. The provisions of this subparagraph shall  
57 apply to any such complaint pending on or after the effective date of  
58 this section.

59 [(5) No person designated by a state agency, department, board or  
60 commission as an affirmative action officer shall represent such  
61 agency, department, board or commission before the Commission on  
62 Human Rights and Opportunities or the Equal Employment  
63 Opportunity Commission. If a complaint of discrimination is filed with  
64 the Commission on Human Rights and Opportunities or the Equal  
65 Employment Opportunity Commission against a state agency,  
66 department, board or commission, the Attorney General, or a designee  
67 of the Attorney General, other than the affirmative action officer for  
68 such agency, board, department or commission, shall represent the  
69 state agency, board, department or commission before the Commission  
70 on Human Rights and Opportunities or the Equal Employment  
71 Opportunity Commission.]

72 (5) Each person designated by a state agency, department, board or  
73 commission as an affirmative action officer shall complete training  
74 provided by the Commission on Human Rights and Opportunities and  
75 the Permanent Commission on the Status of Women pursuant to  
76 subdivision (3) of this subsection.

77 (6) No person designated by a state agency, department, board or

78 commission as an affirmative action officer shall represent such  
 79 agency, department, board or commission before the Commission on  
 80 Human Rights and Opportunities or the Equal Employment  
 81 Opportunity Commission concerning a discrimination complaint. If a  
 82 discrimination complaint is filed with the Commission on Human  
 83 Rights and Opportunities or the Equal Employment Opportunity  
 84 Commission against a state agency, department, board or commission,  
 85 the Attorney General, or a designee of the Attorney General, other  
 86 than the affirmative action officer for such agency, department board  
 87 or commission, shall represent the state agency, department, board or  
 88 commission before the Commission on Human Rights and  
 89 Opportunities or the Equal Employment Opportunity Commission.  
 90 The Attorney General, or the designee of the Attorney General, shall  
 91 provide a copy of any complaint filed with the Commission on Human  
 92 Rights and Opportunities or the Equal Employment Opportunity  
 93 Commission to the affirmative action officer, who shall conduct an  
 94 investigation pursuant to subdivision (4) of this subsection.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	46a-68(b)
-----------	---------------------	-----------

**LAB**      *Joint Favorable Subst. C/R*

GAE

**GAE**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Administrative Services	GF - Cost	124,000 - 248,000	124,000 - 248,000
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	31,992 - 63,984	74,648 - 149,296

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill requires the Department of Administrative Services (DAS) to investigate complaints against or by an agency head, board or commission member, or an affirmative action officer.

The Commission on Human Rights and Opportunities (CHRO) receives approximately 240 complaints a year against state agencies. It is estimated that DAS could investigate 50 - 100 complaints against or by an agency head, board or commission member, or an affirmative action officer. Depending on the number of complaints received, DAS will need 2 - 4 new positions, at \$62,000 per position (plus fringe benefits<sup>1</sup>). The cost to DAS will range from \$124,000 - \$248,000, based on the number of complaints investigated.

<sup>1</sup> The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate for a new employee as a percentage of average salary is 25.8%, effective July 1, 2006. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2006-07 fringe benefit rate is 34.4%, which when combined with the non pension fringe benefit rate totals 60.2%.

Any workload increase under the bill could be handled by the Office of the Attorney General without requiring additional appropriations. As under current law, expenses incurred pursuant to these actions would be passed through to the agency or agencies against which the discrimination complaint is filed.

The addition of a discrimination complaint against or by an agency head, state commission or board member does not have a fiscal impact on CHRO.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 1048*****AN ACT CONCERNING THE INVESTIGATION OF A  
DISCRIMINATION COMPLAINT AGAINST OR BY AN AGENCY  
HEAD OR STATE COMMISSION OR BOARD MEMBER.*****SUMMARY:**

This bill establishes a separate procedure for investigating a discrimination complaint made against or by a state agency head, a board or commission member, or an affirmative action officer (AAO).

Under current law, each state agency, department, board, or commission must designate an AAO, who must investigate all complaints of discrimination made against the entity and report all the findings and recommendations to the entity's commissioner or director for proper action.

The bill instead requires the Department of Administrative Services (DAS) to investigate complaints against or by an agency head, board or commission member, or AAO. If the discrimination complaint is against the DAS commissioner or AAO, the bill requires the Commission on Human Rights and Opportunities (CHRO) to investigate.

The bill also specifies the AAO's responsibilities in certain situations.

EFFECTIVE DATE: Upon passage

**COMPLAINTS AGAINST OR BY AN AGENCY HEAD**

The bill requires DAS to investigate complaints against or by an agency head, board or commission member, or AAO. If the discrimination complaint is against the DAS commissioner or AAO, the bill requires CHRO to investigate.

It also requires the person or entity investigating the complaint against an agency head, board or commission member, or AAO to report its findings to the entity or person that appointed the agency head or member. Where the complaint is against an agency commissioner, the findings must be reported to the governor.

The bill specifies that this new complaint provision will apply to complaints pending on or after the bill's passage.

### **AAO RESPONSIBILITIES**

Under current law an AAO must investigate all complaints of discrimination made against an agency. The bill changes this to require the AAO to investigate upon "knowledge or receipt" of a complaint.

It also specifies that the purpose of complaint investigations and efforts to mitigate discriminatory conduct extend only as far as these behaviors violate agency policies. Current law does not tie the AAO's responsibilities to violations of agency policies.

### **NOTIFYING AGENCIES OF COMPLAINTS TO CHRO OR EEOC**

By law, an AAO is barred from representing his or her own agency before CHRO or the federal Equal Employment Opportunities Commission in a complaint against the agency. The attorney general must handle the complaint. The bill also requires the attorney general, or his designee, to provide the agency AAO with a copy of the complaint. The AAO must investigate the complaint as required by law.

### **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference  
Yea 10 Nay 0 (03/13/2007)

Government Administration and Elections Committee

Joint Favorable  
Yea 13 Nay 0 (03/28/2007)